

REMARKS

Applicant wishes to thank Examiner Self for the prior allowance of claims 1-12, and the indication of allowability of claims 22, 23, 25 and 31-35.

Applicant further wishes to thank Examiner Self for the telephone interview held on June 22, 2005, to discuss independent claims 13, 30, 39 and 48, and the Tomcheck reference U.S. Patent No. 1,231,461. No agreement was reached.

With respect to claims 13, 30 and 39, it was pointed out in the interview that the basic feature indicated in the Final Office Action of March 23, 2005, on page 4 in the statement of reasons for the indication of allowable subject matter and on page 5 in the notation concerning the failings of the Tomcheck reference, was also effectively recited in these claims. In particular, it was noted using claim 13 by way of example, that the claim recites in the last paragraph thereof a spur head member that projects from the spur bar (essentially in the upward direction in normal use) beyond the push arm and terminates in a second end portion positioned spaced away from the push arm for unobstructed application of a force to the second end portion (such as with a hammer) to drive the spur into engagement with the support member without interference by the push arm. This same language is found in claims 30 and 39. The spur head member paragraph of claim 13 is set forth below with some of the language highlighted by underlining to facilitate location of the language being discussed:

a spur head member having a first end portion and a second end portion, the first end portion of the spur head member being attached to the first end portion of the spur bar, the spur head member projecting in a second direction from the spur bar on a side of the spur bar away from the support member when the jack is in use and beyond the push arm and terminating in the second end portion of the spur head member being positioned on a side of the push arm opposite the support member when the jack is in use and spaced away from the push arm for unobstructed application of a force to the second end portion of the spur head member to drive the spur into engagement with the support member without interference by the push arm.

Examiner Self seemed to understand the limitation was significant to the patentability of claim 1 and hence claims 13, 30 and 39, but was concerned about the impact of the change in terminology used in claims 13, 30 and 39, as noted in the rejection made in the Office Action under Section 112, and its impact on the applicability of the Tomcheck reference to these claims. To nullify any such concerns, applicant has elected to amend claim 13, 30 and 39, and where applicable those claims dependent thereon, to use the terminology of the original specification and allowed claim 1. Applicant believes the amendments overcome the rejection under Section 112 and also the rejection of claims 13, 30 and 39 under Section 102 based on the Tomcheck reference. As is claim 1, claims 13, 30 and 39 are now believed allowable, as are all claims that depend on them. The limitation previously argued for allowance of these claims and indicated on page 5 of the Office Action as being persuasive, but not accepted because the claims arguably failed to positively recite the limitation (which Examiner Self indicated in the interview was due to the change in terminology), now should result in allowance of the claims since the terminology issue has been resolved in the manner suggested by Examiner Self.

In view of the indication of allowability in the Office Action of dependent claims 22, 23, 25, and 31-35 if rewritten into independent form, the amend in terminology in these claims has no bearing on their patentability over the cited Tomcheck reference. Further, since independent claims 13 and 30 on which they depend are believed allowable, these dependent claim should be allowed without being rewritten.

With the change in terminology, the other dependent claims 18, 19, 21, 42 and 43 that were only rejected based on Section 112 should also be in condition for allowance (dependent claims 18, 19 and 21 depend from allowed claim 13, and dependent claims 42 and 43 depend from independent claim 39 which is now believed allowable).

During the interview independent claim 48 was also discussed with respect to the Tomcheck reference. It was noted that claim 48 recites a push arm having spaced apart first and second push arm members defining a space therebetween with the spur bar positioned at least partially within the space, and with the first and second push arm

members being arranged to guide and limit lateral movement of the spur arm when the jack is in use. The push arm paragraph of claim 48 is set forth below with some of the language highlighted by underlining to facilitate location of the language being discussed:

a push arm having elongated spaced apart first and second push arm members and a push head member, the first and second push arm members defining a space therebetween and each having a first end portion and a second end portion, the second end portion of both of the first and second push arm members being pivotally attached to the second end portion of the handle, the push head member spanning between the first end portions of the first and second push arm members and positioned for pushing engagement with the wooden plank when the jack is in use, the spur bar being positioned at least partially within the space between the first and second push arm members, and the first and second push arm members being arranged to guide and limit lateral movement of the spur bar when the jack is in use.

Claim 48 was rejected as being anticipated by the Tomcheck reference, but Tomcheck does not have a push arm having spaced apart first and second push arm members defining a space therebetween. Tomcheck uses a single push arm member with no defined space. Further, the spur bar (forwardly extending pawl bar 12 having the spur 13 – column 1, lines 49-50 of Tomcheck) is laterally offset from the push arm (arcuate link 15 – column 2, line 56 of Tomcheck) and certainly is not positioned even partially within any space defined by two push arm members, with the two push arm members arranged to guide and limit lateral movement of the spur arm when the jack is in use, as recited in claim 48. Instead, in Tomcheck the spur arm is positioned far to the left side of the push arm (arcuate link 15), not extending into any space defined by the push arm, and is neither guided by nor has its lateral movement limited by the push arm. Tomcheck does not anticipate claim 48 for these reasons, and claim 48 is believed allowable over Tomcheck. No other prior art of record alone or in combination with Tomcheck shows this feature. In the event that claim 48 is not allowed and another

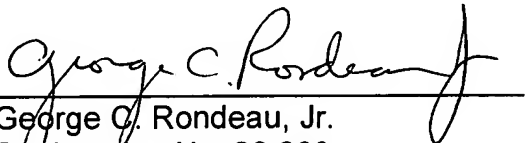
reference is applied against claim 48, the indication of finality of the Office Action should be removed.

If any questions remain or any additional claim amendments are believed necessary to place any claim in condition for allowance, Examiner Self is urged to initiate a telephone interview with the undersigned attorney. The applicant is an individual of limited means, and the patent application process is causing a financial burden so any attempt to limit that burden would be appreciated.

As indicated, all claims are believe in condition for allowance, and as such a notice of allowance is respectfully requested. Since the Office Action has been indicated as Final, applicant requests a call after this Amendment is considered to indicate whether or not it places all claims in condition for allowance so that applicant will have time to take whatever additional action may be needed without incurring unnecessary extension and other fees.

If questions remain regarding this application, the Examiner is invited to contact the undersigned at (206) 628-7739.

Respectfully submitted,
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